

UNITED STATES DISTRICT COURT  
DISTRICT OF MASSACHUSETTS

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U.S. DISTRICT COURT  
DISTRICT OF MASS

MELISSA OSTRANDER, Plaintiff )  
 )  
v. )  
 )  
HUSSMANN CORPORATION, )  
Defendants )

CIVIL ACTION NO. 04-30197-MAP

DEFENDANT, HUSSMAN CORPORATION'S MOTION FOR LEAVE TO  
FILE REPLY TO MASS. RETAIL MERCHANTS' OPPOSITION

Now comes the defendant, Hussmann Corporation, and moves the court for leave to reply to Mass. Retail Merchants' opposition. If permitted to reply, Hussman submits as follows:

1. MRM fails mention that compliance with Rule 7.1 and Rule 37.1 was achieved by Hussmann's letter to MRM dated November 8, 2004 (copy submitted with Hussman's original motion), which outlined the fact that MRM could not permissibly hold back any documents based on privilege, and if it attempted to it must comply with the federal rules. That letter to MRM ended, "To the extent necessary, kindly accept this letter in satisfaction of the requirements of Local Rule 37.1 regarding discovery disputes.


2. Counsel for Hussmann never discussed the substance of the subpoena with Atty. Curtin, or agreed to limit its scope. The sole issue discussed was that the documents were overdue (they were due on 12/1) and would be received forthwith. It should be painfully obvious that Hussmann was not content to receive just the medical records, since it insisted on receiving all documents legally

required before and after the brief phone call between Atty. Curtin and Hussmann's counsel.

3. The court has already ordered "reasonable attorney's fees" for having to file a motion to compel to obtain MRM's compliance, which by all rights should have taken place on or before December 1, 2004.


WHEREFORE, Hussmann requests the court to order MRM to pay \$840.00 in attorney's fees under Fed. R. Civ. P. 37(a).

HUSSMANN CORPORATION, Defendant

By   
JOHN B. STEWART  
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CERTIFICATE OF SERVICE

I certify that a true copy of the foregoing motion was served upon each other party or counsel of records by mail on February 5, 2005.

  
JOHN B. STEWART (BBO #551180)  
MORIARTY, DONOGHUE & LEJA, P.C.